REMARKS

The above-referenced patent application has been reviewed in light of the Final Office Action, dated March 11, 2004, in which: claims 1-4, 8-15, 25-27, 30-33, 37-38, 42-43, 45, 49-52, 57-73 are rejected under 35 USC 103 as being unpatentable over McLaughlin et al. (hereinafter, McLaughlin) in view of Howard et al. (hereinafter, Howard); claims 6-7, 18-19, 53 and 56 are rejected under 35 USC 103 as being unpatentable over McLaughlin and Howard further in view of Chavez et al. (hereinafter, Chavez); and claims 12, 28 and 39 are rejected under 35 USC 103 as being unpatentable over McLaughlin and Howard further in view of Kao.. Reconsideration of the above-referenced patent application in view of the following remarks is respectfully requested.

Claims 1-4, 6-15, 25-28, 30-33, 37-39, 42-43, 45, 49-53, 56-73 are pending. No claims have been cancelled, amended, or added.

The Examiner has rejected claims 1-4, 8-15, 25-27, 30-33, 37-38, 42-43, 45, 49-52, 57-73 under 35 USC 103 as being unpatentable over McLaughlin in view of Howard. This rejection by the Examiner is respectfully traversed. (It is noted that the Office Action refers to claim 46 as being rejected rather than claim 45 – it is assumed that this is an error because claim 46 has been withdrawn from consideration).

The Examiner states that Applicants' prior arguments with respect to these claims are moot in view of new ground(s) of rejection. It is noted, however, that the arguments made previously are still correct despite the Examiner's change in position.

The cited patents, whether considered individually or together, fail to disclose or suggest all the elements of claim 1. For example, as previously argued, claim 1, recites "said control means to

dynamically select said preferred ones of said transceiver stations to provide said particular dedicated channels for said particular mobile station separately from one of said transceiver stations providing particular broadcast channels for said particular mobile station." Thus, even assuming that the proposed combination were proper, which is disputed below, nonetheless, the combination would fail to render the subject matter of claim 1, for example, obvious.

The Examiner concedes that McLaughlin fails to disclose all the elements of claim 1; however, the Examiner argues that Howard discloses the missing elements. The Examiner specifically points to col. 13, lines 1-64 of Howard.

Applicants have carefully reviewed the portion of Howard cited by the Examiner and fail to understand how that portion satisfies the limitations of claim 1, such as, for example, those recited above. On this point, Applicants respectfully request additional explanation from the Examiner. Having read Howard, including the portion cited by the Examiner, however, Applicants take the position that the Examiner is mistaken.

Furthermore, Applicants do not rest on this alone. Applicants assert that there are many aspects of claim 1 that are not suggested or disclosed by the cited patents, whether they are considered jointly or individually. As another example, the cited patents fail to teach "processor means to process said measurements to determine preferred ones of said transceiver stations for said particular dedicated channels for a particular mobile station." Again, Applicants request explanation, but take the position that the proposed combination is deficient. Thus, even assuming one of ordinary skill had these two patents before him, Applicants assert that he would not have been able to produce the subject matter of claim 1 based simply upon these two cited patents.

In addition, Applicants also assert that one of ordinary skill would not have made the proposed combination. As one example, Howard combines receiver signals, see, for example, col. 7, lines 47-

61, whereas McLaughlin instead selects a receiver signal, see, for example, col 13, lines 21-30. Thus, it is asserted that Howard and McLaughlin may not properly be combined since the approaches are not consistent.

It is, therefore, respectfully asserted that the rejection of claim 1 on McLaughlin and Howard is improper. It is respectfully requested that the Examiner withdraw his rejection.

It is noted that in light of the arguments above, it is not necessary to address the remaining arguments made by the Examiner; however, these arguments are not conceded, More specifically, the remaining rejected claims either depend from claim 1 or distinguish from the cited patents on at least on a similar basis. It is therefore requested that the Examiner withdraw his rejection of these claims as well.

The Examiner has also rejected claims 6-7, 18-19, 53 and 56 on McLaughlin and Howard further in view of Chavez, and claims 12, 28 and 39 on McLaughlin and Howard further in view of Kao. These rejections are also respectfully traversed.

It is asserted, as was also previously argued, that these additionally cited patents fail to cure the deficiencies discussed above. Therefore, even assuming the combination were proper, which is disputed, as discussed above, again, the combination fails to suggest or disclose the limitations of the rejected claims. Again, in light of the arguments above, it is not necessary to address the remaining arguments made by the Examiner; however, these arguments are not conceded. The remaining claims also distinguish from the cited patents at least on a similar basis. It is therefore requested that the Examiner withdraw his rejections of these claims as well.

CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 629-7477. Reconsideration of this patent application and early allowance of all of the claims is respectfully requested.

If any additional fee is required, please charge Deposit Account No. 50-3130. A Fee Transmittal is enclosed in duplicate for deposit account charging purposes.

Respectfully submitted,

Howard A. Skaist

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Howard A. Skaist
Reg. No. 36,008

c/o
Berkeley Law and Technology Group
680 NW Altishin Pl.
Beaverton, OR 97006
(503) 629-7477